

3/8/18

11:37 A.M.

Chapter No. 345  
18/HR31/R1545  
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## ***HOUSE BILL NO. 792***

Originated in House  Clerk

HOUSE BILL NO. 792

AN ACT TO AMEND SECTION 81-22-3, MISSISSIPPI CODE OF 1972, TO EXCLUDE CERTAIN FOR-PROFIT DEBT MANAGEMENT SERVICE PROVIDERS FROM THE DEFINITION OF "DEBT MANAGEMENT SERVICE PROVIDER" UNDER THE MISSISSIPPI DEBT MANAGEMENT SERVICES ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 81-22-3, Mississippi Code of 1972, is amended as follows:

81-22-3. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(a) "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(b) "Debt management service" means:

(i) The receiving of money from a consumer for the purpose of distributing one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(ii) Arranging or assisting a consumer to arrange for the distribution of one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(iii) Exercising control, directly or indirectly, or arranging for the exercise of control over funds of the consumer for the purpose of distributing payments to or among one or more creditors of the consumer;

(iv) Acting or offering to act as an intermediary between a consumer and one or more creditors of the consumer for the purpose of adjusting, compromising, negotiating, settling, discharging or otherwise deferring, reducing or altering the terms of payment of the consumer's obligation; or

(v) Improving or offering to improve a consumer's credit record, history or rating.

(c) "Debt management service provider" means a person that provides or offers to provide to a consumer in this state any debt management services, in return for a fee or other consideration. "Debt management service provider" does not include:

(i) Those situations involving debt adjusting incurred incidentally in the lawful practice of law in this state;

(ii) Those situations involving credit report error correction services and situations covered under paragraph

(b) (v) of this section when performed in the lawful practice of law in this state;

(iii) Title insurers who adjust debts out of escrow funds only incidentally in the regular course of their principal business;

(iv) Judicial officers or others acting under court orders;

(v) Those situations involving debt adjusting incurred incidentally in connection with the lawful practice as a certified public accountant;

(vi) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments;

(vii) Employers who adjust debts for their employees;

(viii) Any person who, at the request of a debtor, makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts solely in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting the debts;

(ix) Any institution that is regulated, supervised or licensed by the department or any out-of-state institution that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration; \* \* \*

(x) Licensed attorneys engaged in the lawful practice of law \* \* \*; or

(xi) For-profit debt management service providers who do not receive or hold consumer funds, who do not receive a fee until a settlement is approved by the consumer and who are regulated by the Federal Trade Commission.

(d) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

(e) "Fair share contribution" means voluntary contributions paid to the licensee by the creditor for collecting funds from clients pursuant to debt management services.

(f) "Licensee" means a person or entity who is required to be licensed as a debt management service provider.

(g) "Person" means an individual or an organization.

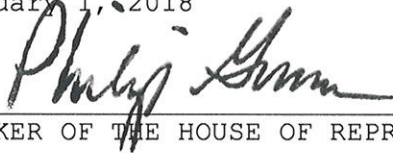
(h) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(i) "Third-party payment processor" means any entity that holds, or has access to, or can effectuate possession of, by any means, the monies of a licensee's debtors, or distributes, or is in the chain or distribution of such monies, to the creditors of such debtors, pursuant to an agreement or contract with the

licensee. This term shall not include entities that solely provide the electronic routing and settlement of financial transactions and their sponsoring banks.

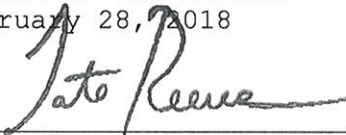
**SECTION 2.** This act shall take effect and be in force from and after July 1, 2018.

PASSED BY THE HOUSE OF REPRESENTATIVES  
February 1, 2018



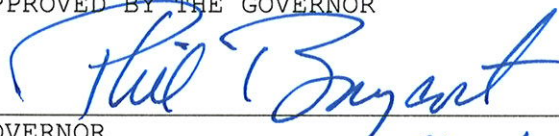
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
February 28, 2018



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

March 8, 2018

11:37 am